



ORIGINAL

RECEIVED

2007 OCT 18 P 2:41
BEFORE THE ARIZONA CORPORATION COMMISSIONAZ CORP COMMISSION
DOCKET CONTROLCOMMISSIONERS

Arizona Corporation Commission

DOCKETED

OCT 18 2007

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

DOCKETED BY

In the matter of:

DOCKET NO. S-20556A-07-0597

COCKRELL INVESTMENT RESOURCE
ASSOCIATES, LLC, CRD# 143337
14780 W. Mountain View, Suite 211
Surprise, AZ 85374TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARINGDAVID A. COCKRELL, CRD# 2622463, and
JANE DOE COCKRELL, husband and wife

Respondents.

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING****EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents COCKRELL INVESTMENT RESOURCE ASSOCIATES, LLC ("CIRA, LLC") and DAVID A. COCKRELL ("Cockrell") have engaged in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-3201, *et seq.*, the Investment Management Act ("IM Act") and that the public welfare requires immediate action.

I.**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the IM Act.

II.

Respondents

2. CIRA, LLC, CRD# 143337, is an Arizona licensed investment adviser since April 11, 2007. CIRA, LLC, is also a licensed insurance producer in Arizona.

3. Cockrell, CRD# 2622463, is an Arizona licensed investment adviser representative since April 11, 2007. Cockrell is also a licensed insurance producer in Arizona.

4. CIRA, LLC, and Cockrell may be referred to collectively as "Respondents."

5. Jane Doe Cockrell was at all relevant times the spouse of Respondent Cockrell. Jane Doe Cockrell may be referred to as "Respondent Spouse." Respondent Spouse is joined in this action under A.R.S. § 44-3291(C) solely for purpose of determining the liability of the marital community.

6. At all times relevant, Respondent Cockrell was acting for his own benefit and for the benefit or in furtherance of Respondent Cockrell and Respondent Spouse's marital community.

III.

FACTS

7. Respondents maintain at least two websites that are accessible by the general public, at www.dacockrell.com and <http://www.mystocktimer.com>.

8. Respondents' websites contain animated audio-visual testimonials by purported clients of CIRA, LLC, or Cockrell, touting or praising the investment advisory services rendered by such investment adviser or investment adviser representative.

9. Respondents' websites contain a description of Respondents' recommendations, which are purportedly based upon an investment philosophy that includes "[m]aking consistent 10% to 30% gains on every position will enhance what you are already doing."

10. Respondents' websites describe Respondents' performance with a caption: "**Check out our performance!**" and a chart that contains past specific recommendations to buy or sell

1 stock in unidentified companies, including dates orders were issued, prices, trailing stops¹, and
2 substantial purported profits and minimal losses realized from each transaction, stated as
3 percentages.

4 **IV.**

5 **REMEDIES PURSUANT TO A.R.S. § 44-3201**

6 **(Denial, Revocation, or Suspension of Investment Adviser or Investment Adviser**

7 **Representative License; Restitution, Penalties, or other Affirmative Action)**

8 11. Respondents' conduct is grounds to suspend Respondents' respective licenses as an
9 investment adviser and investment adviser representative with the Commission pursuant to A.R.S. §
10 44-3201(A)(3). Specifically, revocation or suspension of Respondents' licenses would be in the
11 public interest, and Respondents are:

12 a) Violating A.R.S. § 44-3241(A)(4) by using advertisements that refer to
13 testimonials concerning the investment adviser or investment adviser representative or concerning
14 any advice, analysis, report, or other service rendered by such investment adviser or investment
15 adviser representative.

16 b) Violating A.R.S. § 44-3241(A)(4) by using advertisements that refer to past
17 specific recommendations of the investment adviser or investment adviser representative that were
18 or would have been profitable to any person.

19 **V.**

20 **VIOLATION OF A.R.S. § 44-3241**

21 **(Fraud in the provision of investment advisory services)**

22 12. Respondents are engaging in a transaction or transactions within or from Arizona
23 involving the provision of investment advisory services in which Respondents, directly or indirectly:

24
25 ¹ "All recommendations are posted with a trailing stop. Our strategy of implementing trailing stops is unique
26 because this ensures sound judgement. If the price of a stock goes up, you automatically lock in your gains. If the
price goes down, you sell before you lose too much. This strategy is simple, easy to use and very profitable. Let
your portfolio run high with trailing stops. There is no reason to sell you (sic) position at a certain point, unless
you just want to take some profit. Trailing stops give you complete control of your portfolio. You can rest easy at
night knowing you don't have to worry about the market going down."

1 (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact
2 or omitting to state material facts that are necessary in order to make the statements made not
3 misleading in light of the circumstances under which they are made; (iii) misrepresenting
4 professional qualifications with the intent that the client rely on the misrepresentation; or (iv)
5 engaging in transactions, practices, or courses of business that operate or would operate as a fraud or
6 deceit. Respondents' conduct includes, but is not limited to, the following:

7 a) Engaging in transactions, practices or courses of business that operate or
8 would operate as a fraud or deceit, in violation of A.R.S. § 44-3241(A)(4), as defined by A.A.C.
9 Rule R14-6-208(A)(1), by using advertisements that refer to testimonials concerning the investment
10 adviser or investment adviser representative or concerning any advice, analysis, report, or other
11 service rendered by such investment adviser or investment adviser representative.

12 b) Engaging in transactions, practices or courses of business that operate or
13 would operate as a fraud or deceit, in violation of A.R.S. § 44-3241(A)(4), as defined by A.A.C.
14 Rule R14-6-208(A)(2), by using advertisements that refer to past specific recommendations of the
15 investment adviser or investment adviser representative that were or would have been profitable to
16 any person.

17 13. This conduct violates A.R.S. § 44-3241.

18 **VI.**

19 **TEMPORARY ORDER**

20 **Cease and Desist from Violating the IM Act**

21 THEREFORE, based on the above allegations, and because the Commission has determined
22 that the public welfare requires immediate action,

23 IT IS ORDERED, pursuant to A.R.S. § 44-3212(B) and A.A.C. R14-4-307, that
24 Respondents, their agents, servants, employees, successors, assigns, and those persons in active
25 concert or participation with Respondents CEASE AND DESIST from any violations of the IM Act.
26

1 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
2 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

3 IT IS FURTHER ORDERED that this Order shall be effective immediately.

4 **VII.**

5 **REQUESTED RELIEF**

6 The Division requests that the Commission grant the following relief:

- 7 1. Order Respondents to permanently cease and desist from violating the IM Act,
8 pursuant to A.R.S. §44-3292;
- 9 2. Order Respondents to take affirmative action to correct the conditions resulting from
10 Respondents' acts, practices, or transactions pursuant to A.R.S. § 44-3292;
- 11 3. Order Respondents to pay the state of Arizona administrative penalties of up to one
12 thousand dollars (\$1,000) for each violation of the IM Act, pursuant to A.R.S. § 44-3296;
- 13 4. Order the revocation or suspension of Respondent CIRA LLC's license as an
14 investment adviser pursuant to A.R.S. § 44-3201;
- 15 5. Order the revocation or suspension of Respondent Cockrell's license as an
16 investment adviser representative pursuant to A.R.S. § 44-3201;
- 17 6. Order that the marital community of Respondent Cockrell and Respondent Spouse
18 be subject to any order of administrative penalties, or other appropriate affirmative action pursuant
19 to A.R.S. § 25-215; and
- 20 7. Order any other relief that the Commission deems appropriate.

21 **VIII.**

22 **HEARING OPPORTUNITY**

23 Each respondent including Respondent Spouse may request a hearing pursuant to A.R.S.
24 § 44-3212 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a**
25 **hearing, the requesting respondent must also answer this Temporary Order and Notice. A**
26 **request for hearing must be in writing and received by the Commission within 20 days after service**

1 of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for
2 hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix,
3 Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477
4 or on the Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

5 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10
6 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,
7 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**
8 **Order shall remain effective from the date a hearing is requested until a decision is entered.**
9 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order,
10 with written findings of fact and conclusions of law. A permanent Order may include ordering
11 restitution, assessing administrative penalties, or other action.

12 If a request for hearing is not timely made, the Division will request that the Commission
13 make permanent this Temporary Order, with written findings of fact and conclusions of law, which
14 may include ordering restitution, assessing administrative penalties, or other relief.

15 Persons with a disability may request a reasonable accommodation such as a sign language
16 interpreter, as well as request this document in an alternative format, by contacting Linda Hogan,
17 ADA Coordinator, voice phone number 602/542-3931, e-mail lhogan@azcc.gov. Requests should
18 be made as early as possible to allow time to arrange the accommodation.

19 IX.

20 ANSWER REQUIREMENT

21 Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing,
22 the requesting respondent must deliver or mail an Answer to this Temporary Order and Notice to
23 Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona
24 85007, within 30 calendar days after the date of service of this Temporary Order and Notice.
25 Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
26 Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

